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ABSTRACT

The issue of choice in U.S. education is traced historically. Consideration is given to the purposes of publicly supported education and reasons underlying the historic distinction between public and private education. It is suggested that the issue of choice concerns the rights and obligations of the individual and the state. The relationship between Jefferson's Enlightenment faith in natural religion, natural law, and government by majority rule is briefly considered. Jefferson supported the coexistence of public and private schools; however, public support was restricted to schools that were public in philosophy and governance. It is proposed that throughout much of the nation's history public schools have perpetuated what amounted to an established republican-Protestant civil religion. The view of Horace Mann and other reformers was that public education should be civic, moral, and nonsectarian, but nonsectarian in practice meant nondenominational Protestantism. Supreme Court decisions that have expressed support for religious and political diversity in relation to the established school system are identified, and current criticisms of public education are briefly considered. (SW)

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CHOICE: THE HISTORICAL PERSPECTIVE

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I can think of no more appropriate setting in which to hold a conference on any educational policy issue--and certainly one dealing with "choice"-- than the University of Virginia. This University was founded by one who proclaimed that "here we are not afraid to follow truth wherever it may lead, nor to tolerate any error, so long as reason is left free to combat it." Thomas Jefferson daringly established the University of Virginia upon a foundation of intellectual freedom, "the illimitable freedom of the human mind to explore and to expose every subject susceptible of its contemplation." (1)

There can be no doubt that Jefferson was deeply concerned about choice in his own day. It was his dedication to choice and liberty that led him to give focus and form to the Declaration of Independence as a proclamation of the right of free citizens to govern themselves. It was his conviction that choice should reign in the realm of private religious expression that caused him to oppose the power and privilege of an established church and that gave birth to the Virginia Statute for Religious Freedom that was adopted by this state exactly 200 years ago.

Choice was also a fundamental concern underlying Jefferson's Bill for the More General Diffusion of Knowledge that he proposed in 1779 but that was rejected by his legislative colleagues. Jefferson's bill, had it passed, would certainly have expanded choice and opportunity for many who were then excluded from

HE 020 947

schooling. But concerns both ideological and financial combined to deny to the children of his generation the choice or opportunity of public schooling.

However, before we too quickly and glibly tie Jefferson in with contemporary advocates of choice in education, we might be well advised to slow down, proceed with caution, and give careful consideration to Jefferson's advocacy of public ends as well as public means in the educational arena. We need to consider again, and carefully, the fundamental purposes of publicly supported education and the reasons underlying an historic distinction between public and private education in the United States.

Before undertaking that task, let me say at the outset that I am both flattered and intimidated by being asked to open this conference on "Choice in Education" with remarks on "The Historical Perspective." I would hope that my first contribution to our dialogue would be to state quite clearly that at the root of many of our disagreements are fundamental differences regarding "the" perspective, "the" orthodox view or the "right" interpretation of the historical record. Many who favor increasing choice in education as well as many who find such proposals threatening to public education and an erosion of sound public policy have been intense as well as imaginative in appealing to history for justification of their position. Indeed, several distinguished participants in the debate over choice in education have authored books and articles that have attempted to set forth "the" perspective that, if agreed to, would effectively

soften if not end the controversy.

We are not alone in our disagreements and diverse readings of history, especially when we move into the realm of church-state issues and Constitutional intent. Supreme court justices, appellate judges, and constitutional lawyers as well as educational and political scholars have all found in the historical record an array of facts and perspectives that answer some questions, obscure others, and raise new issues. In fact, even those most intent on discovering the "original intention" of the "founding fathers" are forced to admit with Justice William J. Brennan that with respect to certain constitutional provisions, the framers themselves sometimes disagreed and were deliberately vague and general in their assertions. (2)

These comments are not to say that history is of no consequence in this or other public policy debates. Quite to the contrary, it is to say that the debate is historical and over the meaning of history. While the search for the historical perspective may be illusive, there is no escaping our history and the multiple meanings it has for the present. The way in which we see the past shapes our view of the possibilities for the present. The past does matter, so much so that both critics and defenders of established orders are quick to invoke their version of history in support of their particular view. Therefore, as we seek a perspective on the question of choice in education, we must of necessity confront competing claims purporting to be the perspective. (Our task in seeking a perspective on the past and the present is a difficult one requiring humility, not arrogance. Our search must be for illumination rather than confrontation

and guided by a desire for dialogue and discussion, not dogmatism and dominance.) At best then, I would hope this morning to sketch out a perspective that might map out the main historical boundaries of our discussion and enable us to focus directly on some -- but by no means all -- of the fundamental issues that are matters of dispute.

To maintain a civil level of discourse when engaged in a civil argument is not always easy. That is especially true when, as is the case today, we are discussing questions of value and value questions. I do not mean to play on words frivolously. The questions being raised and the answers arrived at are of **value** because they are important; they will make a difference not merely in terms of means, that is, how we fund the education of the public but also in terms of ends, how we define and defend the purposes of public education. They are **value questions** because they force us to examine our beliefs as we are challenged by the beliefs of others. Choice proposals go to the very heart of fundamental democratic principles in tension--the rights and obligations of the individual and the rights and obligations of the state. They deal with matters of individual and public conscience, belief, and faith.

The perspective that I propose to offer is therefore one framed by historical considerations of conscience, belief, and faith. I have yielded to the temptation of employing religious terminology in our search for perspective, for I will maintain that we are struggling with concepts and commitments underlying the existence and survival of what has become our unofficially

established national church and national creed.(3) Moreover, I am moved to suggest that, just as protest against the medieval Catholic Church led to a Reformation and Counterreformation in Christendom, so too it may be that we are presently caught in the throes of a continuing and fundamental challenge to (if not reordering of) the faith, form and functions of the public school as our national church and are witnessing the emergence or reemergence of dissenting sects engaged in deep struggle with the established order. Whether we see promise or peril in such a possibility depends upon the nature of our faith, our commitments, and our most intense loyalties.

I realize that my analogy to church and religion is risky and troubling to those who are wont to see a high wall of separation between church and state and sharp distinctions between public and private spheres, especially in education. From the perspective I would offer, however, it is <u>because of</u> the depth of our convictions and the ways in which we have or have not been able to compartmentalize our loyalties that make our current struggle appear uncomfortably similar to a religious crusade. To those who would protect what they understand to be the historic purpose and province of the public school, the infidels must be repelled. To those who see the infidels as within or supportive of the public school establishment, it is the structure itself that must be demolished--or at least severely altered. To still others, there remains hope that the faith can yet be maintained even while the institution itself undergoes reform or modification. "Choice" may be the issue of the moment, but I would suggest that the underlying struggle is

rooted in a crisis of faith.

The historic faith of Americans in the power of education to preserve private and public morality and maintain a sense of community must surely be a given in our search for perspective. Among colonial Americans of diverse national backgrounds and religious commitments, education transmitted through the home, church, and community as well as through various forms of voluntary schooling early took root. The line between public and private was hardly clear in the colonial era, and, except for uneven efforts to enforce religious conformity in some communities and weakly enforced apprenticeship laws designed to reduce the burden on society of the unskilled and unproductive, education can be said to have been largely a matter of choice--a choice conditioned, of course, by family circumstance, community values, and the availability --or lack thereof-- of educational institutions.

Faith in the importance and power of education took on new meaning in the Revolutionary and early National period of our nation's history. No spokesman was more forceful in his advocacy of the importance of public education dedicated to public ends than was Thomas Jefferson. "If a nation expects to be ignorant and free, in a state of civilization," he proclaimed, "it expects what never was and never will be." Writing to George Washington in 1786, Jefferson asserted that "It is an axiom of my mind that our liberty can never be safe but in the hands of the people themselves, and that, too, of the people with a certain degree of instruction. This," he added, "it is the business of the state

to effect, and on a general plan." Jefferson's plea to his countrymen to "launch a crusade against ignorance" was not heeded during his lifetime, but the ideals he set in motion, as well as the general outline of his plan for a state system of schools public in support, control, clientele, and ideology became during the course of the 19th century embedded in the laws of every state in the union.(4)

In the context of our search for perspective on faith in education and choice in education, it is instructive to consider a few aspects of Jefferson's thought not usually emphasized in discussions of public education. As committed as Jefferson was to to the idea that the fundamental purpose of public education was to prepare citizens for active participation in and support of the new republican society, he did not seek the abolition of private schools. His plan, as the one that has evolved across the nation, allowed for the coexistence of public and private schools. Public support, however, was to be restricted to schools that were public in philosophy and governance. Moreover, convinced though Jefferson was that civic literacy was essential, he stopped short of proposing that schooling be compulsory. Jefferson's belief that every citizen should be educated did lead him on one occasion to suggest that anyone above the age of 15 who could not read in some language should be disenfranchized, but perhaps more important than that aborted recommendation was his commentary on the rights of individuals in relation to the rights of the state. Note the contemporary ring to Jefferson's expression of the dilemma:

> A question of some doubt might be raised . . . as to the rights and duties of society toward its members, infant and adult. Is it a right or a duty in society to take care of their infant members in opposition to the will of the parent? How far does this right and duty extend?--to guard the life of the infant, his property, his instruction, his morals? The Roman father was supreme in all these; we draw a line, but where? Public sentiment does not seem to have traced it precisely. Nor is it necessary in the present case. It is better to tolerate the rare instance of a parent refusing to let his child be educated, than to shock the common feelings and ideas by the forcible asportation and education of the infant against the will of the father. What is proposed here is to remove the objection of expense, by offering education gratis and to strengthen parental excitement by the disfranchisement of his child while uneducated. . . . If we do not force instruction, let us at least strengthen the motive to receive it when offered.(5)

If Jefferson found it wise to resist using the power of the state to force instruction, public or private, on the untutored, perhaps the reason lies not only in his genuine love of liberty and respect for individual rights, but also in his faith in the power of enlightened public opinion to understand, in time, the relationship between a system of free, universal, public schools and the survival of a new nation launched on the fragile promise of recently proclaimed "self-evident" truths. Indeed, to understand Jefferson's faith in education and the centrality of his thought in public education in particular, we must first come to terms with his hopes for the new republic and his firm commitment of the public school to fundamental Enlightenment and republican precepts.

Robert Healey suggested some years ago that "Jefferson's belief that a particular kind of God had created a particular kind of universe and a particular kind of man" served as the logical basis for the rest of his thought.(6) To Jefferson, a

rational God had created a rational universe and man as a rational creature in that universe. Although a serious student of the Bible and one who referred to Jesus as "the greatest teacher of morals the world has ever known," Jefferson had little interest in or patience with the particularistic, dogmatic, supernatural teachings of sectarian churches. As to his own thoughts on the meaning of religion, Jefferson once wrote to John Adams, my religion "is known to my God and myself alone. Its evidence before the world is to be sought in my life; if that has been honest and dutiful to society, the religion which has regulated it cannot be a bad one." (7) Thus, as Rockne McCarthy, James Skillen, and William Harper recently emphasized in their book, Disestablishment a Second Time, "Jefferson's religion was essentially a moral philosophy."(8)

Basic to Jefferson's moral philosophy and Enlightenment convictions was his faith in man's moral sense and ability to reason. If freed from the outmoded ideas and superstitions of the past, free, rational, moral men could, Jefferson believed, arrive at "self-evident truths." Only in the light of this supreme confidence in reason, this cornerstone of Enlightenment faith, can one appreciate fully Jefferson's bold declaration to "tolerate any error so long as reason is left free to combat it."

Jefferson's faith in reason defined his faith in God, for to Jefferson, God's creation was in all respects rational. The God in which Jefferson placed his faith had endowed men with the ability to comprehend the natural order of things. As Carl Becker has argued, to Jefferson and others in the Enlightenment circle, "a valid morality would be a 'natural morality,' a valid religion

would be a 'natural religion,' a valid law of politics would be a 'natural law.' This was another way of saying that morality, religion, and politics ought to conform to God's will as revealed in the essential nature of man." (9)

Believing then that "the interests of society require the observation of those moral precepts only in which all religions agree," Jefferson was content to grant toleration to sectarian churches and opinions with the assurance that reasonable men would in time discover the true or common "moral core" in natural religion.(10) Jefferson's religious faith was ecumenical. He posited the reality of a true religion that transcended the particularistic creeds and dogmas of sectarian groups. If Jefferson's natural, universalistic, self-evident religion of a common morality was not to replace all other religions, it was at least to serve as a universal common denominator. That is, other religions could indeed maintain their dogmas and creeds in the private sphere if in the public arena the claims of non-sectarian Enlightenment rationalism were recognized. Such was to form the moral basis for the new "civic religion," the public philosophy of the new nation.(11)

As in the religious realm, so too in the political domain was there a division in Jefferson's thought between private views and associations and public participation and philosophy. As free and autonomous creatures of God, men might belong to any number of voluntary groups and embrace an array of diverse opinions. However, in entering into a social compact with other free and rational individuals in the creation of a new society,

eventual fidelity to the natural, rational, moral, and universal civic order was to be expected. David Little expressed Jefferson's conviction in this manner:

> Jefferson has implicit faith in the clarity and reliability of the moral sense of each individual, once its full powers are restored by government (among others), to direct men consistently and harmoniously to everyone's "greatest happiness." Consequently, he shows no concern, from the point of view of either the individual or the government, for the problem of possible conflicts or tensions among the different views of happiness, nor among different readings of the moral sense.(12)

Jefferson's deep and abiding faith in man's rational and moral sense thus led him to conclude that, as the majority of enlightened men began to comprehend God's will in the natural order, conflict as well as outmoded institutions would gradually disappear. Jefferson expressed his faith in the enlightened majority in these words:

> Every man and every body of men on earth posses the right of self-government. They receive it with their being from the hand of nature. Individuals exercise it by their single will; collections of men by that of the majority; for the law of the <u>majority</u> is the natural law for every society of men.(13)

In the new republic then, the will of the majority, assumed to be in concert with natural law and self-evident truths, would define the general conditions under which all free men could exercise their inalienable rights to life, liberty, and the pursuit of happiness.

This all too brief accounting of the relationship between Jefferson's Enlightenment faith in natural religion, natural law, and government by majority rule allows us to return to our consideration of his ideas regarding the form and substance of an education proper for the new nation. Jefferson and his

compatriots were well aware that neither declarations nor wars would insure the survival of the new republic. In the midst of the Revolution Jefferson wrote, ". . . It can never be too often repeated, that the time for fixing every essential right on a legal basis is while our rulers are honest, and ourselves united."(14) Jefferson's Bill for the More General Diffusion of Knowledge was intended to create by law a system of public schools that would be part of the web of republican institutions that would insure the maintenance of a society founded on liberty. But it was also be be an institution that embodied and advanced the rationalistic and naturalistic doctrines that gave life to individual freedom. In what David Tyack has called the "paradox" of the revolutionary generation, Jefferson, Benjamin Rush, Noah Webster, and other founders of the republic sought to create, through the schools and other institutions, a system of "ordered liberty."(15) In education, and more specifically through a system of public schools, these revolutionary leaders envisioned a mechanism that would ensure the development of individual liberty and freedom within the context of a universal, homogeneous republic. The public schools proposed were to be dedicated to the nurturence of republican virtue, to strengthening the bonds of common citizenship, and to the creation and maintenance of a political community governed by the dictates of natural religion and natural law. Parents, churches, or other groups that might insist on maintaining separate educational traditions or whose belief systems emphasized particularistic as opposed to universal religious or political precepts would by definition fall outside the enlightened public

community.

Whether viewed as a "paradox," as Tyack framed the matter, or as "spiritual tyranny" by the majority as McCarthy, Skillen, and Harper infer (16), it is an inescapable fact that the public schools envisioned for the new republic were not to be void of moral or political content. The schools were to advance the new creed of the public civil religion. This awareness prompted Sidney Mead to conclude:

> . . . the public schools in the United States took over one of the basic responsibilities that traditionally was always assumed by an established church. In this sense the public school system of the United States *is* its established church. . . .
>
> In this context one can understand why it is that the religion of many Americans is democracy -- why their real faith is the "democratic faith"--the religion of the public schools.(17)

To the degree that one might argue that the democratic faith embraces those God-given moral principles and rights derived from the universal, rational order of nature, perhaps one could say that Jefferson would have had it no other way.

A study of the history of public schooling in the United States compels one to add that, at least until recent times, apparently a majority of Christians, or at least Protestants, could also find comfort in the workings of a public school system that, with whatever adjustments to local community prejudices, fostered belief in a civil religion. As McCarthy, Skillen, and Harper again note, "Christians could accept Jefferson's universalistic republican principles because those principles appeared to be purely secular, *limited* to the public political realm, and not restrictive for personal piety and private

ecclesiastical freedom outside the public realm." If some Christians still held on to an older ideal of a church-directed culture, many willingly "accommodated themselves to a public order that would allow them to nurture and strengthen their Christian freedom" in private.(18)

The 19th century reformers who picked up the Jeffersonian challenge and worked during the course of that century to implant republican public schools all across the nation made further accommodations to Protestant Christianity that more deeply entrenched the public school as America's unofficially established church. Declaring public education to be the "reform to end the need for reform," Horace Mann and other evangelists for uniform, state-wide systems of public schools in essence merged republican ideals with what they held to be "common" Christian beliefs. Mann believed that public schools could provide the basis for moral and religious development that would foster a homogeneous society. Not unlike Jefferson, Mann argued that common principles of religious belief, what he termed the "Religion of Heaven," should be taught to children while "the creeds of men" should be postponed until children's minds were "sufficiently matured to weigh Evidence and Arguments."(19) To Mann and other Protestant reformers who shared this view, public education could be civic, moral and nonsectarian at the same time. Nonsectarian, of course, in practice meant non-denominational Protestantism.

The crusaders for the common school ideal were not without detractors. In addition to minority Protestant denominations and other sects and groups that wished to maintain community and

educational traditions apart from the mainstream, Catholics in New York and then in other states raised objection to the emerging public school monopoly over the control of public funds and the imposition of majoritarian beliefs. Rebuffed after repeated attempts to secure funding for a more pluralistic system of confessional schools, Catholics resorted to creating their own system of parochial schools. The Third Plenary Council of Baltimore in 1884 dictated that every Catholic pastor should establish a parish school and all Catholic parents were instructed to send their children to a Catholic parochial school whenever one was available. In consequence, a parochial school system took root as an integral part of the American Catholic Church in the same way that the public school system had been established to uphold the American civil religion.

The hegemony of the Protestant-republican ideology in the public schools thus fostered the maintenance of a secularized core of Protestant values at the same time that it denied "public" legitimacy to the exercise of religious, ethnic and communal traditions that immigrants brought with them to the New World. Put another way, as far as alternative schooling was concerned, the right to exercise choice in the private sphere carried a price.

We must not forget in this overview that for some supporters of private schooling, the price has been worth the investment in other than (or in addition to) spiritual or ethnic terms. Elite academies dating from the late 19th century drew their nourishment from the promise of insulating the children of the

well-to-do classes from the amalgamating influences of the public school. As Thomas James has observed, "For the well-born, the beauty of maintaining a separate sphere of private association was that there the egalitarian goals of the public sector would not obtain." (20) Thus, the dream of the common public school as a foundation for equality of opportunity as well as the source of creating and perpetuating a common civility and a common morality has historically been compromised by the reality of exit and choice. It may well be, as Steven Levine has contended, that the success of the wealthy in creating a network of private schools closely associated with the nation's leading social and financial circles may explain "more about the failure of the American educational system to reduce inequality than anything else that has occurred in the public schools."(21)

However that may be, by the 20th century it had become apparent that there are limits to both the hegemony of the public school as an established institution and to the dominance of civil religion as a universal creed. Beginning with the landmark Pierce v. The Society of Sisters case in 1925, Supreme Court decisions have begun to highlight the ambiguity underlying the public school's established position. The Pierce decision was, of course, a victory for those who argued, as did the majority of the Court, that parents and guardians should be at liberty "to direct the upbringing and education of children under their control. . . ." Declaring unconstitutional the 1922 Oregon law that required all children to attend public schools, the Court maintained that "The fundamental theory of liberty upon which all governments in the Union repose excludes any general power of the

state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state." The Court hastened to add, however, that even though private education was acceptable, the public interest must be protected. Thus, the state retained the power to regulate private schools, such regulation insuring, among other concerns, "that teachers shall be of good moral character and patriotic disposition, that certain studies plainly essential to good citizenship must be taught, and that nothing be taught which is manifestly inimical to the public welfare."(22)

Our search for a useable perspective on the dual histories of public and private schooling in the United States has emphasized the fact that public schools no less than private schools have been established to maintain a point of view. If throughout much of our nation's history public schools perpetuated under the guise of neutrality and nonsectarianism what amounted to an established republican-Protestant civil religion, in more recent years that creed has been tested by forces spanning the ideological spectrum. Recent Supreme Court decisions have gone beyond Pierce in expressing sensitivity to and respect for religious and even political diversity in relation to the established school system. The "child benefit" principle of limited public aid in support of parochial school students was established in Cochran in 1930 and expanded in Everson in 1947. In the McCollum decision in 1948 the Supreme Court held that released time for religious instruction on school grounds was unconstitutional, although four years later in Zorach

(1952) the released time practice was upheld in off-campus settings. In Yoder (1972) state compulsory attendance law was modified to accommodate the Amish, the Court reasoning in a fashion similar to Pierce that recognition should be given to the "values of parental direction of the religious upbringing and education of their children. . . ." Exemption from saluting the flag and repeating the Pledge of Allegiance was granted to Jehovah's Witnesses in the Barnette case in 1943. The Court reasoned in that case that inasmuch as schools are educating the young for citizenship, "scrupulous protection of Constitutional freedoms of the individual" must be observed "if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes." Decisions such as these, each marked by controversy, invoked elements of the publicly established civil religion --in particular the doctrine of the separation of church and state-- in defense of minority rights.(23)

For at least one important sector of the American population that historically had been a willing ally in the defense and support of the public school, the Supreme Court decisions of 1962 and 1963 relating to prayer and Bible reading in the schools signaled the outbreak of a fateful schism. The logic of the Court in giving greater weight to the Establishment Clause as against the Free Exercise Clause in reaching its decisions in Engel and Schempp caused fundamentalist Protestants to begin to follow the route taken by Catholics in the 19th century in the establishment of their own Christian academies.(24)

Academies of another sort were started by still others who

left the fold of the public schools in the years following the Brown decision of 1954. The Brown decision and the social legislation and appellate rulings that followed, in attempting to make the public schools truly common and equal, had the result of further eroding the faith on the part of those for whom at least some aspects of the civic religion had indeed been mere platitudes. It is ~~in sense~~ thus ironic that as the Courts and the schools have begun at last to face up the pluralism of our nation, the one institution historically charged with the task of establishing a common meeting ground is becoming a victim of those very efforts.(25)

Our search for a perspective on choice in education has taken us over an uneven and uncomfortable path from the Jeffersonian proposal for a system of public schools as the repository of an optimistic (and some would say myopic) faith in natural rights, natural law, and natural morality. If indeed the public school can properly be seen as our unofficially established national church, it is clear that there have always been dissenters and nonbelievers. It is clear too that for the longer part of our history the rights of minorities have not been given equal voice or protection or support in the public sphere. It seems true also, as Martin Marty has noted, that in spite of limitations, public schools did help millions in many generations come out of isolation into the public arena . . . and provided a neutral ground between tribes that would otherwise not have tolerated each other."(26)

Even so, we find ourselves today in a crisis of faith.

There are those who maintain that the public school, as an established church, has never been and perhaps can never be truly "value-neutral." Their call is for "disestablishment a second time." Others, who fear that indeed public schools have become entirely too "value-neutral" under the spell of secular humanism, are pushing for "reestablishment" in the form of the restoration of prayer and scientific creationism in the schools at the same time that still others have abandoned the struggle and are establishing alternative academies. Uneasiness with the massive bureaucracy that has evolved in the public establishment, concern over academic standards and discipline, resentment over recent Court decisions, and feelings of impotency on the part of parents and local citizens groups have further divided the communicants.

Perhaps, in a Vatican II-like fashion, the public schools can withstand the current round of criticisms once again and through reforms emerge as healthy, ecumenical, and yet restructured institutions. But religious schisms are not resolved easily, and it may well be that, again as with Vatican II, demands for increased choice in education will force our public forms of worship and liturgy, as well as elements of our historic faith, to undergo profound change.

There is, of course, another possible scenario. As with the Peace of Westphalia that in 1648 calmed the religious conflict sparked by the Reformation in Europe, we could decide that each territory or separate group should determine its own religious --or social, ethnic, or ideological-- educational structure. The implications of this scenario, it seems to me,

are among the most pressing issues that should guide our deliberations regarding choice in education. However various proposals for choice may fare, it seems certain that the future of public education and the education of the public will be marked by the decisions before us.

NOTES

1. Thomas Jefferson to William Roscoe, Dec. 27, 1820, in The Writings of Thomas Jefferson, eds. Andrew A. Lipscomb and Albert E. Bergh, vol. 15 (Washington, D. C., Thomas Jefferson Memorial Association, 1903), p. 303; Thomas Jefferson to A. L. C. Destutt de Tracy, Dec. 26, 1820 in The Works of Thomas Jefferson, ed. Paul L. Ford, vol. 10 (New York: G. P. Putnam's Sons, 1892-1899), p. 174.

2. Justice William J. Brennan, Speech at Georgetown University, Oct. 12, 1985 as quoted by R. Freeman Butts, Religion, Education, and the First Amendment: The Appeal to History (Washington, D. C.: People for the American Way, 1985), p. 14.

3. Metaphoric references to the school as church and educational faith as religious belief date at least from the early years of the 20th century. See Jeffery R. Herold, "The American Faith in the Schools as an Agency of Progress: Promise and Fulfillment," (Ph. D. dissertation, Ohio State University, 1969), chap. 1.

4. Thomas Jefferson to Col. Charles Yancey, Jan. 6, 1816 in Ford, vol. 10, p. 4; Thomas Jefferson to George Washington, Jan. 4, 1786, in The Papers of Thomas Jefferson, ed. Julian P. Boyd, vol. 9 (Princeton, N.J.: Princeton University Press, 1950), p.151; Thomas Jefferson to George Wythe, Aug. 13, 1786, in Lipscomb and Bergh, vol. 5, pp. 396-397.

5. Thomas Jefferson, "An Act for Establishing Elementary Schools," in The Complete Jefferson, Saul K. Padover, ed. (New York: Duell, Sloan and Pearce, 1943), pp. 1074-1075.

6. Robert Healey, Jefferson on Religion and Public Education (New Haven: Yale University Press, 1962), p. 17.

7. Thomas Jefferson to John Adams, Jan. 11, 1817, in Lipscomb and Bergh, vol. 15, p. 100.

8. Rockne M. McCarthy, James W. Skillen, and William A. Harper, Disestablishment a Second Time: Genuine Pluralism for American Schools (Grand Rapids, MI: Christian University Press, 1982), p. 16.

9. Carl Becker, The Declaration of Independence (New York: Alfred Knopf, 1966), p. 57.

10. Thomas Jefferson to James Fishback, Sept. 27, 1809, in Lipscomb and Bergh, vol. 12, p.315. See also David Little, "The Origins of Perplexity: Civil Religion and Moral Belief in the Thought of Thomas Jefferson," in American Civil Religion, Russell E. Richey and Donald G. Jones, eds. (New York: Harper and Row, 1974), p. 200.

11. This line of argument follows closely the more detailed discussion offered in McCarthy, Skillen, and Harper, chap. 2 and passim.

12. Little, "Origins of Perplexity," p. 197.

13. Thomas Jefferson, "Opinion on Residence Bill," July, 1790, in Ford, vol. 5, pp. 205-206.

14. Thomas Jefferson, Notes on the State of Virginia (Chapel Hill: University of North Carolina Press, 1787, 1954), p. 161.

15. David Tyack, "Forming the National Character: Paradox in the Educational Thought of the Revolutionary Generation," Harvard Educational Review, 36 (1966), pp. 29-41.

16. McCarthy, Skillen, and Harper, p. 40.

17. Sidney Mead, The Lively Experiment: The Shaping of Christianity in America (New York: Harper and Row, 1963), p. 68.

18. McCarthy, Skillen, and Harper, p. 50.

19. Horace Mann as quoted in Jonathan C. Messerli, "Localism and State Control in Horace Mann's Reform of the Common Schools," American Quarterly, 17 (1965), p. 111; Horace Mann to Frederick Packard, July 22, 1838, in Raymond B. Culver, Horace Mann and Religion in Massachusetts Public Schools (New Haven: Yale University Press, 1929), p. 267.

20. Thomas James, "Questions About Educational Choice: An Argument from History," in Public Dollars for Private Schools: The Case of Tuition Tax Credits, Thomas James and Henry M. Levin, eds. (Philadelphia: Temple University Press, 1983), p. 63.

21. Steven B. Levine, "The Rise of American Boarding Schools and the Development of a National Upper Class," Social Problems 28 (1980), pp. 91-92.

22. Pierce v. Society of Sisters, 268 U.S. 510 (1925).

23. Cochran v. Louisiana State Board of Education, 281 U.S. 370 (1930); Everson v. Board of Education, 330 U.S. 1 (1947); McCollum v. Board of Education, 333 U.S. 203 (1948); Zorach v. Clauson, 343 U.S. 306 (1952); Wisconsin v. Yoder, 406 U.S. 205 (1972); West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943).

24. Engel v. Vitale, 370 U.S. 421 (1962); School District of Abington Township v. Schempp, 374 U.S. 203 (1963).

25. See Richard Kluger, Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality (New York: Alfred A. Knopf, 1975).

26. Martin Marty, "Foreward," in McCarthy, Skillen, and Harper, p. x.